
PRELIMINARY DRAFT
No. 3340

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2007 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 30-4-4-5.

Synopsis: Trust administration. Eliminates the requirement that a trust certification document include the trust's taxpayer identification number.

Effective: July 1, 2007.



A BILL FOR AN ACT to amend the Indiana Code concerning trusts and fiduciaries.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 30-4-4-5, AS ADDED BY P.L.238-2005, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) A trustee may furnish to a person other than a beneficiary a certification of trust instead of a copy of the trust instrument. The certification of trust must contain the following information:

(1) That the trust exists and the date the trust instrument was executed.

(2) The identity of the settlor.

(3) The identity and address of the currently acting trustee.

(4) The powers of the trustee.

(5) The revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust.

(6) The authority of cotrustees to sign or otherwise authenticate and whether all or less than all the cotrustees are required in order to exercise the powers of the trustee.

~~(7) The trust's taxpayer identification number.~~

~~(8)~~ (7) The manner of taking title to trust property.

(b) A certification of trust may be signed or authenticated by any trustee.

(c) A certification of trust must state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.

(d) A certification of trust may contain the dispositive terms of a trust.

(e) A recipient of a certification of trust may require the trustee to furnish copies of excerpts from the original trust instrument and later amendments that:

(1) designate the trustee; and

(2) confer on the trustee the power to act in a pending transaction in which the recipient has an interest.



1 (f) A person who acts in reliance on a certification of trust without
2 knowledge that the representations contained in the certification of
3 trust are incorrect:

4 (1) is not liable to any person for acting in reliance on the
5 certification of trust; and

6 (2) may assume without inquiry the existence of the facts
7 contained in the certification of trust.

8 Knowledge of the terms of the trust may not be inferred solely from the
9 fact that a copy of all or part of the trust instrument is held by the
10 person relying on the certification.

11 (g) A person who in good faith enters into a transaction in reliance
12 on a certification of trust may enforce the transaction against the trust
13 property as if the representations contained in the certification were
14 correct.

15 (h) A person making a demand for the trust instrument in addition
16 to a certification of trust or excerpts from the original trust instrument
17 is liable for damages if the court determines that a person did not act
18 in good faith in demanding the trust instrument.

19 (i) This section does not limit the right of a person to obtain a copy
20 of the trust instrument in a judicial proceeding concerning the trust.

